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09/875,212

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Lowell Martinson

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SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA, AZ 85201

EXAMINER

SHAHER, RICKY D

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/875,212	Applicant(s) MARTINSON, LOWELL	
	Examiner Ricky D. Shafer	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Ben-Ghiath ('227).

Ben-Ghiath discloses a lateral-view mirror assembly for a vehicle comprising a first lateral view mirror (120) coupled to one of a rear portion and a rear windshield of the vehicle in line of sight with a rear-view mirror (102) of the vehicle (see Fig. 1D); and a second lateral-view mirror (118) coupled to one of the rear portion and the rear windshield of the vehicle in the line of sight with the rear-view mirror of the vehicle (see Fig. 1D), wherein an object (136, 138) lateral to one of a passenger's side of a rear end of the vehicle, a driver's side of the rear end of the vehicle and a combination of the passenger's side and the driver's side of the rear end of the vehicle is reflected from the rear-view mirror in response to a reflection of the object from one of the first lateral view mirror, the second lateral view mirror and a combination of the first and second lateral view mirrors in the line of sight with the rear-view mirror (see Fig. 1G), wherein the first lateral-view mirror is coupled toward the driver's side of the vehicle and wherein the second lateral-view mirror is coupled toward the passenger's side of the vehicle. Note figures 1C to 1G along with the associated description thereof.

3. Claims 24-26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis, II ('875).

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Davis, II discloses a lateral-view mirror assembly for a vehicle comprising a first lateral view mirror [(18) or (42, 44, 46) that is located on the left side of the mirror assembly, see figures 1 and 2] coupled to one of a rear portion and a rear windshield of the vehicle in line of sight with a rear-view mirror of the vehicle (see Fig. 4); a second lateral-view mirror [(18) or (42, 44, 46) that is located on the right side of the mirror assembly, see figures 1 and 2] coupled to one of the rear portion and the rear windshield of the vehicle in the line of sight with the rear-view mirror of the vehicle (see Fig. 4) and a base (54) operably coupled to each lateral view mirror, wherein each lateral view mirror is movable along a vertical direction and rotational about a horizontal axis (see Fig. 6), wherein the mirror assembly is inherently capable of viewing objects lateral to one of a passenger's side of a rear end of the vehicle, a driver's side of the rear end of the vehicle and a combination of the passenger's side and the driver's side of the rear end of the vehicle is reflected from the rear-view mirror in response to a reflection of the object from one of the first lateral view mirror, the second lateral view mirror and a combination of the first and second lateral view mirrors in the line of sight with the rear-view mirror (see Fig. 4), wherein the first lateral-view mirror is coupled toward the driver's side of the vehicle, and wherein the second lateral-view mirror is coupled toward the passenger's side of the vehicle. Note figures 1, 2 and 4-6 along with the associated description thereof.

4. Claims 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang ('993).

Yang discloses a lateral-view mirror assembly (1) for a vehicle comprising a first lateral view mirror [(4) that is located on the left side of the mirror assembly, see figures 2, 4 and 5] coupled to one of a rear portion and a rear windshield of the vehicle in line of sight with a rear-view mirror (see page 6, lines 21-29) of the vehicle (see figures 4 and 5); and a second lateral-

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view mirror [(4) that is located on the right side of the mirror assembly, see figures 2, 4 and 5] coupled to one of the rear portion and the rear windshield of the vehicle in the line of sight with the rear-view mirror of the vehicle (see figures 4 and 5), wherein the mirror assembly is inherently capable of viewing objects lateral to one of a passenger's side of a rear end of the vehicle (S1), a driver's side of the rear end of the vehicle (S2) and a combination of the passenger's side and the driver's side of the rear end of the vehicle (S1, S2) is reflected from the rear-view mirror in response to a reflection of the object from one of the first lateral view mirror, the second lateral view mirror and a combination of the first and second lateral view mirrors in the line of sight with the rear-view mirror (see figures 4 and 5), wherein the first lateral-view mirror is coupled toward the driver's side of the vehicle (S1), wherein the second lateral-view mirror is coupled toward the passenger's side of the vehicle (S2) and wherein the mirrors include a convex mirror surface (see page 5, lines 1-4). Note figures 2, 4 and 5 along with the associated description thereof.

5. Claims 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Lorenzo ('141).

Lorenzo discloses a lateral-view mirror assembly for a vehicle comprising a first lateral view mirror [(7) that is located on the left side of the mirror assembly, see figures 1 and 2] coupled to one of a rear portion and a rear windshield of the vehicle in line of sight with a rear-view mirror (14) of the vehicle (see Fig. 2); a second lateral-view mirror [(7) that is located on the right side of the mirror assembly, see figures 1 and 2] coupled to one of the rear portion and the rear windshield of the vehicle in the line of sight with the rear-view mirror of the vehicle (see Fig. 4) and a base (1) operably coupled to each lateral view mirror, wherein each lateral view mirror is movable along a vertical direction and rotational about a horizontal axis (see Fig. 1),

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wherein the mirror assembly is inherently capable of viewing objects lateral to one of a passenger's side of a rear end of the vehicle, a driver's side of the rear end of the vehicle and a combination of the passenger's side and the driver's side of the rear end of the vehicle is reflected from the rear-view mirror in response to a reflection of the object from one of the first lateral view mirror, the second lateral view mirror and a combination of the first and second lateral view mirrors in the line of sight with the rear-view mirror (see Fig. 2), wherein the first lateral-view mirror is coupled toward the driver's side of the vehicle (see Fig. 2), wherein the second lateral-view mirror is coupled toward the passenger's side of the vehicle (see Fig. 2) and wherein the mirrors include a convex mirror surface (see figures 1 and 2). Note figures 1 and 2 along with the associated description thereof.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ben-Ghiath ('227) in view of Lorenzo ('141).

Ben-Ghiath discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the mirrors include a convex mirror surface.

Lorenzo teaches it is well known to use convex mirrors in the same field of endeavor for the purpose of viewing objects lateral of a vehicle. See Fig. 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mirrors of Ben-Ghiath to include a convex mirror surface

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configuration, as taught by Lorenzo, in order to increase the field of view of objects lateral of said vehicle.

8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis, II ('875) in view of Lorenzo ('141).

Davis, II discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the mirrors include a convex mirror surface.

Lorenzo teaches it is well known to use convex mirrors in the same field of endeavor for the purpose of viewing objects lateral of a vehicle. See Fig. 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mirrors of Davis, II to include a convex mirror surface configuration, as taught by Lorenzo, in order to increase the field of view of objects lateral of said vehicle.

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this

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application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 24-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,715,893. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (09/875,212) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 6,715,893 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claim 1 of U.S. Patent ('893) discloses a lateral-view mirror assembly for a vehicle comprising a first convex lateral view mirror coupled to a rear portion of the vehicle in a line of sight with a rear-view mirror of the vehicle; and a second convex lateral-view mirror coupled to a rear portion of the vehicle in the line of sight with the rear-view mirror of the vehicle, wherein the mirror assembly is obviously capable of viewing objects lateral to one of a passenger's side of a rear end of the vehicle, a driver's side of the rear end of the vehicle and a combination of the passenger's side and the driver's side of the rear end of the vehicle is reflected from the rear-view mirror in response to a reflection of the object from one of the first lateral view mirror, the second lateral view mirror and a combination of the first and second lateral view mirrors in the line of sight with the rear-view mirror, wherein the first lateral-view mirror is coupled toward the driver's side of the vehicle and wherein the second lateral-view mirror is coupled toward the passenger's side of the vehicle.

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11. Claims 24-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,799,857. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (09/875,212) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 6,799,857 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claim 1 of U.S. Patent ('857) discloses a lateral-view mirror assembly for a vehicle comprising a first lateral view mirror coupled to a rear portion of the vehicle in a line of sight with a rear-view mirror of the vehicle; and a second lateral-view mirror coupled to a rear portion of the vehicle in the line of sight with the rear-view mirror of the vehicle, wherein the mirror assembly is obviously capable of viewing objects lateral to one of a passenger's side of a rear end of the vehicle, a driver's side of the rear end of the vehicle and a combination of the passenger's side and the driver's side of the rear end of the vehicle is reflected from the rear-view mirror in response to a reflection of the object from one of the first lateral view mirror, the second lateral view mirror and a combination of the first and second lateral view mirrors in the line of sight with the rear-view mirror, wherein the first lateral-view mirror is coupled toward the driver's side of the vehicle and wherein the second lateral-view mirror is coupled toward the passenger's side of the vehicle.

12. Claims 24-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 19 of U.S. Patent No. 6,979,089. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (09/875,212) discloses no additional invention or discovery other than

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what was already claimed and patented in U.S. Patent 6,979,089 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claim 19 of U.S. Patent ('089) discloses a lateral-view mirror assembly for a vehicle comprising a first lateral view mirror coupled to a rear portion of the vehicle in a line of sight with a rear-view mirror of the vehicle; and a second lateral-view mirror coupled to a rear portion of the vehicle, wherein the mirror assembly is obviously capable of viewing objects lateral to one of a passenger's side of a rear end of the vehicle, a driver's side of the rear end of the vehicle and a combination of the passenger's side and the driver's side of the rear end of the vehicle is reflected from the rear-view mirror in response to a reflection of the object from one of the first lateral view mirror, the second lateral view mirror and a combination of the first and second lateral view mirrors in the line of sight with the rear-view mirror, wherein the first lateral-view mirror is coupled toward the driver's side of the vehicle and wherein the second lateral-view mirror is coupled toward the passenger's side of the vehicle.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.

The examiner can normally be reached on Mon-Fri. 11:00 to 7:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

May 10, 2009

/Ricky D. Shafer/
Primary Examiner
Art Unit 2872